

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1-5, 9, 10, and 21-27 are pending in this application. Claims 6-8 and 11-20 have been cancelled without prejudice or disclaimer. Claim 1 has been amended to even more clearly define the invention, Claims 9 and 10 have been amended to now ultimately depend on Claim 1, and new method Claims 21-27 have been added to replace the canceled method claims with method claims similar in subject matter to Claims 1-5, 9, and 10, all without the introduction of any new matter.

The outstanding Office Action includes a rejection of Claims 6-20 under 35 U.S.C. §102(b) as being anticipated by Cowan et al. (U. S. Patent No. 5,828,840, Cowan), a rejection of Claims 6-20 under 35 U.S.C. §102(e) as being anticipated by Mizuhara et al. (U. S. Patent No. 6,457,040, Mizuhara), a rejection of Claims 6-20 under 35 U.S.C. §102(e) as being anticipated by Tanaka et al. (U. S. Patent No. 6,110,812 Tanaka), a rejection of Claim 1 under 35 U.S.C. §102(b) as being anticipated by Harada et al. (U. S. Patent No. 5,721,583, Harada), and a rejection of Claims 2-5 as being unpatentable over Harada in view of Foster (U.S. Patent No. 6,211 583).

The rejections of Claims 6-20 as being anticipated by any of Cowan, Mizuhara, or Tanaka are believed to be moot in view of the cancellation of Claims 6-8 and 11-20 and the amendment to Claims 9 and 10 to depend ultimately on Claim 1.

Before considering the rejections applied to Claims 1 and Claims 2-5 that depend from Claim 1, it is believed that a brief review of the present invention would be helpful. In this

regard, page 4, lines 11-12, of the specification, for example, note that the present inventive subject matter included in Claim 1, and the claims dependent thereon, permits the user of the terminal control apparatus to control terminal devices of other users as if the user was controlling his own terminal device, i.e., “the user can use other person’s terminal device, exactly in the same conditions as he uses his own terminal device.”

Turning to the rejection of Claim 1 under 35 U.S.C. §102(b) as being anticipated by Harada, it is noted that the data stored in 2306 relates to the user personal attributes as disclosed at col. 17, lines 34-36, for example, and has nothing to do with the further requirement of Claim 1 as to a “particular user terminal of that user different from the terminal device.” Thus, the use of this user personal attribute data from 2306 by the CPU 2301 (asserted to teach this limitation at the top of page 4 of the outstanding Action) cannot be said to correspond to this subject matter that tells nothing about any user device, much less one different from device 102, 103. Thus, as it is clear that Harada does not teach, or even suggest, all the limitations of Claim 1, this anticipation rejection of Claim 1 is traversed.

Moreover, Harada contains no teaching or suggestion of the information stored in 2306 or elsewhere being of a nature permitting the user to “use the terminal device as if the terminal device was in a system condition of the particular user terminal.” Accordingly, anticipation the rejection of Claim 1 is traversed for this reason as well.

The rejection of Claims 2-5 as being unpatentable over Harada in view of Foster is first of all traversed because these claims all ultimately depend on Claim 1 and Foster cures none of the above noted deficiencies of Harada.

Secondly, the rejection of Claims 2-5 as being unpatentable over Harada in view of Foster is traversed because of the reliance on undocumented assertions as to universal/programmable remote controllers at the bottom of page 4 of the outstanding Action.

Note In re Lee, 61 USPQ2d 1430, (Fed. Cir. 2002) at 1434 as follows:

The examiner's conclusory statements . . . do not adequately address the issue of motivation to combine. This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority.

While page 5 of the outstanding action then adds Foster with bare assertions that Foster somehow teaches the limitations of each of Claims 2-5, these assertions do not satisfy 37 CFR 37 CFR § 1.104(c)(2) or the precedent cited in the last response as to In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) ("When the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference.") and In re Lee, 61 USPQ2d 1430, 143 (Fed. Cir. 2002) as follows:

The Administrative Procedure Act, which governs the proceedings of administrative agencies and related judicial review, establishes a scheme of "reasoned decision making." Not only must an agency's decreed result be within the scope of its lawful authority, but the process by which it reaches that result must be logical and rational. This standard requires that the agency not only have reached a sound decision, but have articulated the reasons for that decision. [Emphasis added, citation omitted.]

Further note Lee at 61 USPQ2d 1432-33 as follows:

... the agency tribunal must present a full and reasoned explanation of its decision. The agency tribunal must set forth its findings and the grounds thereof, as supported by the agency record, and explain its application of the law to the found facts.

As the present Action fails to follow either the PTO rule or the court requirements as to providing explanations of how Foster is interpreted to show the features of Claims 2-5 and as it it does not appear that Foster actually shows such features, the rejection of Claims 2-5 is traversed for this reason as well.

With further regard to Claims 9 and 10 that now depend from Claim 1 directly or indirectly, these claims are believed to patentably define over these references for the reasons noted above as to parent Claim 1. In addition, Claims 9 and 10 clearly add features to those of claim 1 that are also not taught or suggested by Harada taken alone or in any proper combination with Foster and these claims therefore patentably define over these references for this reason as well.

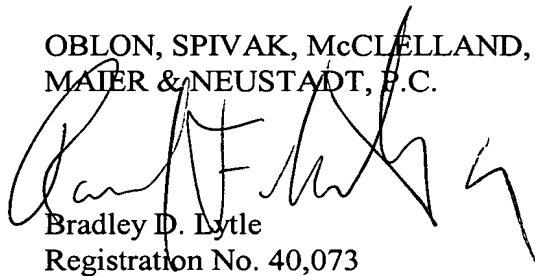
With further regard to new Claims 21-27, it is noted that these method claims closely parallel the subject matter of Claims 1-5, 9, and 10. Accordingly, new Claims 21-27 are believed to patentably define over Harada taken alone or in any proper combination with Foster for the reasons set forth above as to Claims 1-5, 9, and 10.

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Reply to Office Action of 05/06/04

As no further issues are believed to remain outstanding in the present application, it is believed that this application is clearly in condition for formal allowance and an early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read 'Bradley D. Lytle', is written over the printed name and firm name.

Bradley D. Lytle
Registration No. 40,073
Attorney of Record
Raymond F. Cardillo, Jr.
Registration No. 40,440

Customer Number

22850

(703) 413-3000
(703) 413-2220 (fax)
BDL/RFC/jmp
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